

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

**ORDER**

Criminal File No. 02-308 (MJD/JGL)

(1) WILLIAM HARRY THOMPSON,

Defendant.

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Nancy E. Brasel, Assistant United States Attorney, Counsel for Plaintiff

William Harry Thompson, pro se.

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This matter is before the Court on Defendant William Harry Thompson's Pro Se Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) [Docket No. 62] and his Pro Se Motion for Appointment of Counsel Pursuant to 18 U.S.C. § 3006A [Docket No. 63].

On April 27, 2009, this Court denied Thompson's Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2) because Thompson's sentencing

range was set by his career offender status; therefore, his sentencing range had not been lowered by the retroactive crack cocaine amendments, and Thompson was not eligible for resentencing. [Docket No. 56] On May 11, 2009, the Eighth Circuit Court of Appeals affirmed this Court's judgment. [Docket No. 60]

Thompson now has filed a second motion seeking a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). [Docket No. 62] In this motion, Thompson asserts that the Court should give retroactive effect to Amendment 709 to the Sentencing Guidelines and reconsider his criminal history points. The Eighth Circuit has held that "Amendment 709 . . . not a covered amendment under § 1B1.10 to which retroactive treatment may be given." United States v. Peters, 524 F.3d 905, 907 (8th Cir. 2008). Therefore, the Court does not have the power to resentence Thompson under 18 U.S.C. § 3582(c)(2).

Thompson has also filed a motion for appointment of counsel to assist him in his motion for a sentence reduction. Because it is clear that the Court is without power to grant Thompson's motion for a reduction in sentence, the Court denies Thompson's motion for appointment of counsel.

**IT IS HEREBY ORDERED** that:

1. Defendant William Harry Thompson's Pro Se Motion for Reduction

of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) [Docket No. 62] is **DENIED**.

2. Defendant's Pro Se Motion for Appointment of Counsel Pursuant to 18 U.S.C. § 3006A [Docket No. 63] is **DENIED**.

Dated: June 18, 2010

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court